

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

CONSUELLA L. COTTON, in her own proper)
person and as mother and next friend of her minor)
children, SHAVON COTTON, JANICE COTTON,)
NATEIYA COTTON, IEISHA COTTON, JAMAL)
COTTON, JEREMAINE COTTON, AND)
PHILLIP McCARTHY, Jr.,)

Plaintiff,)

v.

THE CITY OF CHICAGO, an Illinois Municipal
Corporation, SERGEANT DERRICK STARKS,
Star No. 2226, , and VARIOUS UNKNOWN
POLICE OFFICERS OF THE CITY OF
CHICAGO, individually and as employees of the
Chicago Police Department,

Defendants.)

JUDGE ZAGEL

03 C 0 0 933

Case No.

JUDGE ZAGEL

Hon.

Judge Presiding.

MAGISTRATE JUDGE KEYS

COMPLAINT

NOW COMES the Plaintiff, CONSUELLA L. COTTON, in her own proper person and as
mother and next friend of her minor children, SHAVON COTTON, JANICE COTTON, NATEIYA
COTTON, IEISHA COTTON, JAMAL COTTON, JEREMAINE COTTON, AND PHILLIP
McCARTHY, Jr., by and through her attorneys, John P. De Rose and Associates, and complains of
the Defendants, THE CITY OF CHICAGO, a Municipal Corporation, SERGEANT DERRICK
STARKS, and various UNKNOWN POLICE OFFICERS OF THE CITY OF CHICAGO,
individually and as employees of the City of Chicago, and states:

JURISDICTION

1. The jurisdiction of this Honorable Court is invoked pursuant to 42 U.S.C. § 1983 and
supplemental jurisdiction is requested over state law claims pursuant to 28 U.S.C.

403-03715

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§ 1367.

PARTIES

2. CONSUELLA L. COTTON, (sometimes hereinafter referred to as "Plaintiff"), at all relevant times hereinafter mentioned was a citizen and resident of the State of Illinois and of the United States.
3. SHAVON COTTON, JANICE COTTON, NATEIYA COTTON, IEISHA COTTON, JAMAL COTTON, JAMAL COTTON, JEREMAINE COTTON, AND PHILLIP McCARTHY, Jr., at all relevant times hereinafter mentioned were citizens and residents of the State of Illinois and of the United States.
4. THE CITY OF CHICAGO, is an Illinois Municipal Corporation.
5. SERGEANT DERRICK STARKS and the VARIOUS UNKNOWN POLICE OFFICERS OF THE CITY OF CHICAGO, at all relevant times hereinafter mentioned are believed to have been citizens and residents of the State of Illinois and the United States and were employees of the Chicago Police Department.
6. The identities of the VARIOUS UNKNOWN POLICE OFFICERS OF THE CITY OF CHICAGO are unknown at this time but can and will be ascertained during the discovery phase of the above-captioned cause, at which time Plaintiff will seasonably move the Court for leave to file an Amended Complaint properly identifying them.

FACTS

7. On or around February 14, 2002, Plaintiff was at her home located at 6018 S. Champlain in Chicago, Illinois.
8. On or around February 14, 2002 at approximately 6:15 p.m., Sergeant Starks and the

Unknown Defendant Police Officers appeared at Plaintiff's home and began banging on the door to the vestibule of the lobby of her apartment building.

9. Sergeant Starks and the Unknown Defendant Police Officers were in plain clothes and wearing bullet proof vests, but showing no outward signs of lawful authority.
10. At the banging and insistent demands of Sergeant Starks and the Unknown Defendant Police Officers, Plaintiff immediately opened the door to the vestibule of the lobby of the apartment building.
11. Without warrant or invitation, Sergeant Starks and the Unknown Defendant Police Officers violently pushed Plaintiff aside and then boisterously rushed and entered her home on the first floor of the building with their guns drawn.
12. Sergeant Starks and the Unknown Defendant Police Officers' entry into Plaintiff's home frightened and intimidated Plaintiff and her family, consisting of seven minor children ranging in age from 16 years to 2 years.
13. Sergeant Starks and the Unknown Defendant Police Officers announced that someone had sold drugs through the front door of the apartment building to an undercover officer, and that they were looking for marked money.
14. Sergeant Starks and the Unknown Defendant Police Officers searched, ransacked, and upset the home of Plaintiff and her minor children.
15. Sergeant Starks and the Unknown Defendant Police Officers hollared and ordered Plaintiff and her minor children about the house, except Shavon Cotton who was not home at the time.
16. Sergeant Starks and the Unknown Defendant Police Officers accused Plaintiff of

having drugs in home.

17. Plaintiff emphatically insisted there were no drugs in her home.
18. Sergeant Starks replied, "I know you are involved in this."
19. Sergeant Starks and the Unknown Defendant Police Officers ushered Plaintiff and her minor children into the front room of her home.
20. Sergeant Starks and the Unknown Defendant Police Officers then brought two unknown men in handcuffs to the living room of the apartment and made them sit on the floor.
21. In the presence and view of her minor children and the two men who were handcuffed on the living room floor, one of Unknown Defendant Police Officers then made Plaintiff pull her underwear down and her gown up, without any right or reason to so do.
22. At that time Plaintiff was in plain view of the two men in handcuffs as well as Sergeant Starks and the Unknown Defendant Police Officers as they walked about the apartment.
23. Shavon Cotton, Plaintiff's oldest daughter was outside the door to the home and was not allowed to enter by order of Sergeant Starks and the Unknown Defendant Police Officers.
24. From her vantage point outside her home, Shavon Cotton could see her mother being subjected to the strip search in front of her brothers and sisters.
25. Without any right or reason to so do, Sergeant Starks and the Unknown Defendant Police Officers then searched Plaintiff's minor children who were in the home at the

time.

26. Brina Spensor, Plaintiff's female friend who was visiting her at the time was also searched.
27. After Sergeant Starks and the Unknown Defendant Police Officers claimed to have found drugs in the upstairs apartment, they told Plaintiff in the presence of her minor children that they knew she was a part of it and that they would take her children away from her.
28. In her presence and the presence of her minor children, Defendant Starks asked the two men from the upstairs apartment if Plaintiff was involved in the selling of drugs, to which they replied, "No, she just lives on the first floor."
29. Sergeant Starks and the Unknown Defendant Police Officers released the two unknown men from the handcuffs and allowed them to leave the building.
30. Sergeant Starks and the Unknown Defendant Police Officers finally left Plaintiff's home after upsetting her, her minor children, and the guest of her household.
31. Plaintiff and her family have suffered from emotional distress as a result of the violations that occurred at the hands of Defendants.

**COUNT I
VIOLATION OF 42 U.S.C. § 1983
(ILLEGAL SEARCH AND SEIZURE AGAINST ALL DEFENDANTS)**

32. Plaintiff repeats and realleges paragraphs 1 through 31 of this complaint as paragraphs 1 through 31 of Count I as though fully set forth herein.
33. Defendants violated the federally protected civil rights of Plaintiff Consuella L. Cotton and those of her minor children, including the Fourth Amendment right to be

free of illegal search and seizure, as applied to the State of Illinois through the Fourteenth Amendment.

34. All Defendants at all relevant times were acting under the color of state law.
35. Defendants, without any legitimate reason or cause, unlawfully entered Plaintiff's premises without a search warrant and without the consent of the rightful owner or any person with apparent authority.
36. Defendants, without any legitimate reason or cause, seized and searched Plaintiff and the person of her minor children and that of her house guest and Plaintiff's home .
37. Defendants knew or should have been known that their actions were violative of rights guaranteed to Plaintiff and her minor children.
38. The City of Chicago, by and through its officers and agents has failed to investigate, discipline, reprimand or instruct its officers in any way for the malicious and unconstitutional actions of its officers thus evincing a policy, practice and custom of encouraging and condoning such acts and exhibiting a reckless disregard for the rights of citizens in the jurisdiction.
39. At all relevant times, Defendant Starks and the Unknown Defendant Police Officers were acting pursuant to Defendant City of Chicago custom and practices.
40. The Defendants' actions were intentional and malicious and showed a willful and wanton disregard for the rights of the Plaintiff and her minor children.
41. The Defendants' actions have caused and continue to cause the Plaintiff and her minor children great expense, anxiety, and pain of mind and body for a long time, all to the Plaintiff's damage.

WHEREFORE, Plaintiff, CONSUELLA L. COTTON, in her own proper person and as mother and next friend of her minor children, SHAVON COTTON, JANICE COTTON, NATEIYA COTTON, IEISHA COTTON, JAMAL COTTON, JAMAL COTTON, JEREMAINE COTTON, AND PHILLIP McCARTHY, Jr., respectfully prays for judgment against the DEFENDANTS and each of them as follows:

- A. Compensatory damages in the amount of one million dollars (\$1,000,000), including but not limited to, physical injury and disability, pain and suffering, and medical expenses which were incurred as a result of Defendant's actions;
- B. Costs of this suit;
- C. Reasonable attorney's fees;
- D. Other such relief as this Honorable Court deems proper and just; and
- E. Punitive damages from individual Defendants in the amount of one million dollars (\$1,000,000).

**COUNT II
BATTERY**
(Against the Individually Named Defendants)

- 42. Plaintiff repeats and realleges paragraphs 1 through 41 of this complaint as paragraphs 1 through 41 of Count II as though fully set forth herein.
- 43. On or around February 14, 2002, Defendants, without any legal justification, violently, forcefully, and without consent, shoved and jostled Plaintiff and her minor children and made an insulting and provocative contact with her and them.
- 44. As a result of Defendants' unlawful battery against Plaintiff and her minor children, Plaintiff and some of those children have suffered physical and emotional injuries resulting in extreme and continuing pain and expense.

45. Defendants' actions were the direct and proximate cause of the injuries suffered by Plaintiff and her minor children.
46. Defendants' actions were taken intentionally and with malice so as to cause severe Plaintiff and her minor children physical and emotional pain.

WHEREFORE, Plaintiff, CONSUELLA L. COTTON, in her own proper person and as mother and next friend of her minor children, SHAVON COTTON, JANICE COTTON, NATEIYA COTTON, IEISHA COTTON, JAMAL COTTON, JAMAL COTTON, JEREMAINE COTTON, AND PHILLIP McCARTHY, Jr., respectfully prays for judgment against the DEFENDANTS and each of them as follows:

- A. Compensatory damages in the amount of one million dollars (\$1,000,000), including but not limited to, physical injury and disability, pain and suffering, and medical expenses which were incurred as a result of Defendant's actions;
- B. Costs of this suit;
- C. Reasonable attorney's fees;
- D. Other such relief as this Honorable Court deems proper and just; and
- E. Punitive damages in the amount of one million dollars (\$1,000,000).

**COUNT III
INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS**

47. Plaintiff repeats and realleges paragraphs 1 through 46 of this complaint as paragraphs 1 through 46 of Count III as though fully set forth herein.
48. The actions of the Defendants, including the illegal entry into Plaintiff's home, the illegal search of Plaintiff's home, the impermissible strip search of Plaintiff, the

search of her minor children, and the battery perpetrated by Defendants on Plaintiff and her minor children, were extreme and outrageous.

49. The Defendants knew or reasonably should have known that the Plaintiff was the rightful owner of the seized property and their entry and subsequent actions had a high probability of causing severe emotional distress to the Plaintiff and her minor children.
50. The Defendants' actions were intentional and malicious and demonstrated a willful and wanton disregard for the rights of the Plaintiff and her minor children and had a high probability of causing severe emotional distress to the Plaintiff and some of her children.
51. The Defendants' actions have caused and continue to cause Plaintiff and some of her minor children severe emotional distress for which they have and must continue to seek psychological counseling.

WHEREFORE, Plaintiff, CONSUELLA L. COTTON, in her own proper person and as mother and next friend of her minor children, SHAVON COTTON, JANICE COTTON, NATEIYA COTTON, IEISHA COTTON, JAMAL COTTON, JAMAL COTTON, JEREMAINE COTTON, AND PHILLIP McCARTHY, Jr., respectfully prays for judgment against the DEFENDANTS and each of them as follows:

- A. Compensatory damages in the amount of one million dollars (\$1,000,000), including but not limited to, physical injury and disability, pain and suffering, and medical expenses which were incurred as a result of Defendant's actions;
- B. Costs of this suit;

- C. Reasonable attorney's fees;
- D. Other such relief as this Honorable Court deems proper and just; and
- E. Punitive damages in the amount of one million dollars (\$1,000,000).

Respectfully submitted,



John P. DeRose

John P. DeRose and Associates
15 Spinning Wheel Road
Suite 328
Hinsdale, Illinois 60521
(630) 920-1111

JS 44
(Rev. 12/96)**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing & service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Consuelo L. Cotton, et al.

JUDGE ZAGEL

03 CO 0933

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Cook
(EXCEPT IN U.S. PLAINTIFF CASES)

MAGISTRATE JUDGE KEYS

DEFENDANTS

The City of Chicago, et al.

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Cook

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

John P. DeRose & Associates
15 Spinning Wheel Road, Suite 328
Hinsdale, Illinois 60521
(630) 920-1111

ATTORNEYS (IF KNOWN)

DOCKETED

FEB 10 2003

II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

 1 U.S. Government Plaintiff 3 Federal Question
(U.S. Government Not a Party) 2 U.S. Government Defendant 4 Diversity
(Indicate Citizenship of Parties in Item III)**III. CITIZENSHIP OF PRINCIPAL PARTIES** (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)
(For Diversity Cases Only)

PTF DEF

PTF DEF

Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or ReopenedTransferred from
 5 another district
(specify) 6 Multidistrict LitigationAppeal to District Judge from
 7 Magistrate Judgment**V. NATURE OF SUIT**

(PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med Malpractice	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 620 Copyrights	<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	PERSONAL PROPERTY	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury		LABOR	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 892 Economic Stabilization Act
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS:	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 530 General	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 245 Tort Product Liability	<input checked="" type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	

VI. CAUSE OF ACTION(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE.
DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

42 U.S.C. § 1983 Illegal Search and Seizure

VII. REQUESTED IN COMPLAINTCHECK IF THIS IS A CLASS ACTION
 UNDER F.R.C.P. 23**DEMAND \$**

\$1,000,000.00

CHECK YES only if demanded in complaint

 YES NO**VIII. This case** is not a refiling of a previously dismissed action. is a refiling of case number _____, previously dismissed by Judge _____

DATE

02/07/03

SIGNATURE OF ATTORNEY OF RECORD

John P. DeRose

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

Consuella L. Cotton, et al. v. City of Chicago, et al.

JUDGE ZAGR**DOCKETED**

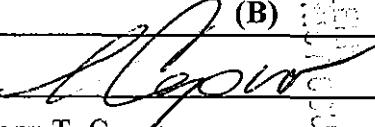
MAGISTRATE/JUDGE KEYS

FEB 10 2003

Case Number:
03 C 000933

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR: Kevin Wright

Plaintiffs, Consuella L. Cotton, Shavon Cotton, Janice Cotton, Nateiya Cotton, Ieisha Cotton, Jamal Cotton,
Jeremaine Cotton, and Phillip McCarthy, Jr.

(A)		(B)	
SIGNATURE 		SIGNATURE 	
NAME John P. DeRose		NAME Anthony T. Capua	
FIRM John P. DeRose & Associates		FIRM John P. DeRose & Associates	
STREET ADDRESS 15 Spinning Wheel Road, Suite 328		STREET ADDRESS 15 Spinning Wheel Road, Suite 328	
CITY/STATE/ZIP Hinsdale, Illinois 60521		CITY/STATE/ZIP Hinsdale, Illinois 60521	
TELEPHONE NUMBER 630/920-1111	FAX NUMBER 630/920-1170	TELEPHONE NUMBER 630/920-1111	FAX NUMBER 630/920-1170
E-MAIL ADDRESS		E-MAIL ADDRESS	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 0620300		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)	
MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
(C)		(D)	
SIGNATURE		SIGNATURE	
NAME		NAME	
FIRM		FIRM	
STREET ADDRESS		STREET ADDRESS	
CITY/STATE/ZIP		CITY/STATE/ZIP	
TELEPHONE NUMBER	FAX NUMBER	TELEPHONE NUMBER	FAX NUMBER
E-MAIL ADDRESS		E-MAIL ADDRESS	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)	
MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input type="checkbox"/>		MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input type="checkbox"/>	
TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input type="checkbox"/>		TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input type="checkbox"/>	
DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	